

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDIN ADGUSTO CHACON,

No. C 05-4880 SI (pr)

Plaintiff,

**ORDER (1) RE. MISCELLANEOUS
MOTIONS; (2) SCHEDULING
CONFERENCE, PRETRIAL, AND
TRIAL DATES; AND (3) REFERRING
CASE TO MEDIATION**

v.

D. GALLIAN, sergeant; et al.,

Defendants.

A. Miscellaneous Motions

Plaintiff filed a "motion for a continuance" and later a "request of scheduling for motion for summary judgment," both of which requested a continuance of the deadline scheduled for him to file his opposition to the motion for summary judgment. The motion and request are DENIED as moot. (Docket # 32 and # 34.) There was no need or reason for plaintiff to file an opposition because defendants never filed a motion for summary judgment.

Plaintiff also sent to the court a letter requesting the court intervene to prevent his transfer to Pelican Bay because he speculated that he would be unable to receive medical care at that facility. (Docket t# 33.) The request is DENIED as moot because, after the request was made, plaintiff was transferred to CCI - Tehachapi. Furthermore, absent extremely unusual circumstances not present here, the court does not interfere in housing decisions made by the CDCR. See Turner v. Safley, 482 U.S. 78, 84-86 (1987); Wright v. Rushen, 642 F.2d 1129, 1132 (9th Cir. 1981) (courts should avoid enmeshing themselves in minutiae of prison operations in name of constitution).

1 B. Scheduling

2 It appears that this case is almost ready for trial. No dispositive motion was made and the
 3 November 9, 2007, deadline for defendants to file a motion for summary judgment has long
 4 passed. Discovery is or shortly will be finished; more than a year ago, plaintiff reported that he
 5 had no discovery to do and defendants reported that the only discovery they still needed to do
 6 was to take plaintiff's deposition. (See Docket # 16 and # 24.) Defendants have filed an answer
 7 to the amended complaint. It appears that neither plaintiff nor defendants demanded a jury trial.
 8 The court therefore sets the following dates:

9 A further telephonic case management conference will be held at **2:00 p.m. on**
 10 **Thursday, June 19, 2008**. Defense counsel shall initiate the conference call, and shall have
 11 plaintiff on the line before connecting the call to the court. No later than **June 6, 2008**, the
 12 plaintiff and defendants must file and serve separate written lists of their intended witnesses for
 13 trial. For each witness on his witness list, the party shall state briefly the testimony expected
 14 from that witness. One of the reasons for the witness list is that advance planning is necessary
 15 if witnesses need to be subpoenaed or, in the case of prisoner-witnesses, brought by writ of
 16 habeas corpus. The court will not issue writs or have subpoenas served unless plaintiff submits
 17 a proposed witness list in which he explains where each witness is located and what each witness
 18 is expected to testify about so that the court can determine whether each proposed witness is
 19 necessary and what needs to be done to bring him/her to the trial. Plaintiff is reminded that, for
 20 each non-prisoner witness who is not willing to show up voluntarily, plaintiff needs to subpoena
 21 the witness and must pay to that witness a witness fee of \$40.00 and travel expenses. See 28
 22 U.S.C. § 1821(b) & (c). These fees cannot be waived by the court. Therefore, plaintiff needs
 23 to be able to explain at the case management conference the arrangements he has made to pay
 24 the fees and expenses of his witnesses. The parties also should be prepared to discuss at the
 25 conference any other concerns they have about the litigation of this action so that it is ready for
 26 trial in September.

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1 The parties must fully comply with the pretrial instructions sent with this order.

2 A pretrial conference will be held at **10:00 a.m. on Monday, September 8, 2008.**

3 The bench trial will commence at **8:30 a.m. on Tuesday, September 9, 2008.**

4
5 C. Reference To Mediation Program


6 The court has a Pro Se Prisoner Mediation Program in which selected prisoner cases with
7 unrepresented plaintiffs are referred to a neutral magistrate judge for mediation proceedings
8 consisting of one or more conferences as determined by the mediator. Good cause appearing
9 therefor, this case is now referred to Magistrate Judge Vadas for mediation proceedings pursuant
10 to the Pro Se Prisoner Mediation Program. The proceedings will take place within **ninety days**
11 of the date this order is filed. Magistrate Judge Vadas will coordinate a time and date for a
12 mediation proceeding with all interested parties and/or their representatives and, within **five days**
13 after the conclusion of the mediation proceedings, file with the court a report for the prisoner
14 mediation proceedings.

15 The referral of this case to the mediation program does not affect the other dates set in
16 this order. The dates for the case management conference, pretrial conference and trial have
17 been selected so that the case is ready for trial shortly after the mediation concludes if the
18 mediation does not successfully resolve the case.

19 The clerk will send to Magistrate Judge Vadas in Eureka, California, a copy of the case
20 file for this action.

21 IT IS SO ORDERED.

22 Dated: May 7, 2008

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25 SUSAN ILLSTON
26 United States District Judge
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